RECEIVED
CENTRAL FAX CENTER
JUL 25 2007

confidential fax

To: **USPTO**
Fax Number: 1 571 273-8300

From:
Fax Number:
Business Phone:
Home Phone:

Pages: 8
Date/Time: 7/25/2007 3:54:45 PM
Subject: Response to Office Action

For:
Art Unit 3766
Deborah Malamud

From John Simmons
Re: 10/718,348

RECEIVED
CENTRAL FAX CENTER
JUL 25 2007

Application Number: 10/718,348 April 11, 2007
Applicant : John C. Simmons
Filed : 11/21/2003
Group Art Unit: 3766
Examiner : Deborah Leslie Malamud

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Response to office action mailed 7/9/2007

For ease of reading, the examiner's numerical references to species numbered I – IV are used herein and those numerical references are also used at the beginning of topic-initiating paragraphs to identify the two "species" being discussed.

"I" vs. "II". The action, in section 2, indicates that the "Species I" elements "are not disclosed as capable of use together .." with the "Species II" (Claim 30) elements that "Species I" specifically uses in multiple embodiments for the provision of precision spatial alignment, carriage, power storage, etc. as described in the specification. Applicant respectfully submits that not only are the two part of a unified embodiment but the specification specifically demonstrates their use together. As examples, applicant respectfully submits paragraphs identified in the specification: [0017] and all through [0086 – 0095] where the value of II's positional management on a difficult-to-attach-to physical form (a bird's body) is described.

Also in [0017], "An outer beak formed cover, 140, for attaching and connecting the inside-the-beak assembly and conveying the optional micro-armored cable, 150, for conveying power and data between the behavior director located inside the beak and the storage compartment, 110" describes one of the many unique-to-the-current-invention relationships between I and II. II would not be of much use or function independently in

that specific embodiment without the in-beak data-driven pattern stimulator or I. They are clearly described as working together.

Section 2 also describes "II" as a "restraining device" despite the description in the specification and the claim's (Claim 30 which is all of "II") emphasis on leaving the wearer as "unencumbered" as possible. Also, in further contrast to a restraining device, in the description of Fig. 3 in [0017] the "flexibility" of the assembly is an important consideration as in the "flexible fibers" of [0089]. Further, claim 30 is not a "restraining device" but a means to secure, align, and interface the multiple key elements of the invention. It does not in any way attempt to restrain the necessary movement of the wearer but, instead, endeavors to be unrestrictive leaving control of the wearer to its own, unfettered motor instincts to comply with the more "cerebral" guidance (willful obedience) described.

Also, these elements are specifically designed for each other as the specification illustrates in detail and thus do not have "materially different intended uses and constructions".

III vs. I. Applicant respectfully submits that "III", as described in the specification, is an embodiment comparable to the basic elements of I (w/much identical claim text) modified for special training applications and including additive software that would not work without some of the elements of I. Neither could #I do training as described in the claim 31 without elements of III. Also, "III" is not a training protocol and the phrase "positive and negative reinforcement" was placed in the "whereby" portion of the claim illustrating a well-known procedure applicable to but in no way restricting the current invention.

II vs. III. The action, in section 2, also indicates that the "Species II" and "Species III" elements "are not disclosed as capable of use together ..". However, the "Species II" (Claim 30) elements are specifically designed for and described as the providers of the precision placement, alignment, mounting, and powering of the worn (portable, not

including the remote controller equipment) hardware of III's training elements. This includes the stimulation array and hardware precision spatial alignment, carriage, power storage, etc. as described in the specification. Applicant respectfully submits that not only are the two part of a unified embodiment but the specification specifically demonstrates their use together. As examples, applicant respectfully submits that worn embodiments of claim 31 requires the storage and power and communications cables of II, and the two are further shown used together in paragraphs [0017] and all through [0086 – 0095].

Section 2 also describes "II" as a "restraining device" despite the description in the specification and the claim's (Claim 30 which is all of "II") emphasis on leaving the wearer as "unencumbered" as possible. Also, in further contrast to a restraining device, in the description of Fig. 3 in [0017] the "flexibility" of the assembly is an important consideration as in the "flexible fibers" of [0089]. Claim 30 is not a "restraining device" but a means to secure, align, and interface the multiple key elements of the invention. It does not in any way attempt to restrain the necessary movement of the wearer but, specifically in contrast, endeavors to be unrestrictive leaving control of the wearer to its own, unfettered motor instincts to comply with the more "cerebral" guidance (willful obedience) described.

Also, these elements are specifically designed for each other as the specification illustrates in detail and thus do not have "materially different intended uses and constructions".

II vs. IV. The action, in section 2, further indicates that II and IV are unrelated because one is a "restraining device" and the other a "behavior controlling device".
II is not a restraining device. The specification and the claim's (Claim 30 which is all of "II") emphasize, as mentioned above, leaving the wearer as "unencumbered" as possible. Also, in further contrast to a restraining device, in the description of Fig. 3 in [0017] the "flexibility" of the assembly is an important consideration as in the "flexible fibers" of [0089]. Claim 30 is not a "restraining device" but a means to secure, align, and interface

the multiple key elements of the invention. It does not in any way attempt to restrain the necessary movement of the wearer but, specifically in contrast, endeavors to be unrestrictive.

Instead, II provides the precision spatial alignment, carriage, power storage, etc. that IV relies on for accurate and reliable placement and alignment as described in the specification. Applicant respectfully submits that not only are the two part of a unified embodiment but the specification specifically demonstrates their use together. As examples, applicant respectfully submits paragraphs identified in the specification: [0017] and all through [0086 – 0095].

Also, in [0017], "An outer beak formed cover, 140, for attaching and connecting the inside-the-beak assembly and conveying the optional micro-armored cable, 150, for conveying power and data between the behavior director located inside the beak and the storage compartment, 110" describes one of the many unique-to-the-current-invention relationships between I and II. II would not be of much use or function independently in that specific embodiment without an in-beak data-driven pattern stimulator. They are clearly described as working together.

Finally, applicant sought to be brief in this section but submits that all of the points in the more lengthy "I" vs. II" section above apply here as well and those not included here are incorporated by reference.

III vs. IV. Independent claim 31 describes a "stimulation means" where "means" directs us predominantly to those means described in the specification which "process" clearly will not be produced by the indicated "third party" "as opposed to the stimulation of a subject's body".
In paragraph 5 the elements of an integrated system are split up into species that don't reflect the invention as described in the specification. Similarly, paragraph 6 suggests that "they are not disclosed as capable of use together" and states that "In the

instant case, the different inventions require different components that are not usable together..". This language is confusing since all the elements work together (and could all exist in a single, functional embodiment working together at the same time) as described in the specification.

One of those embodiments is a bird being directed through the delivery system of I and IV powered by, secured by, maintaining the communications with, and being spatially aligned through the elements of II in the action of applying the computer training software and interactive stimulation-delivered techniques of III which depend on these stimulated directions, communications interfaces, power, support equipment, etc. as the key elements of the training interface. Take away any of those pieces (I,II,III, or IV) and that specific singular (and very useful) embodiment is not fully functional for the purposes described and claimed.

The action required without immediate benefit of discussion that an election be made and applicant respectfully, albeit under duress, obediently elects I with traverse so that the above explanations will be treated as a petition.

The action also required selection of species within that election and applicant will select (a) for Species A, (b) for species B, (c) for Species C, and (a) for Species D. Applicant selects these with traverse and asks that the comments below also be considered as a petition for reconsideration.

Species A: In Species A, the elements required as separate patents are elements of a dataset from the same spatial direction, comprehension, and communication device. Though adequately independent in some applications, these symbols for direction and distance are analogous to a printer that prints letters, dots, and arrows – with a use for each symbology and key to communication of interrelated thoughts of spatial importance. Certainly, in some applications you wouldn't need arrows. Some printed documents

would not require dots. But, if the printer were invented de novo today, would it require a separate patent for each character in a character set?

I believe you will see in the specification that, like the printer, we are communicating with symbols. Some are arrows indicative of direction, some have different lengths suggesting speed or distance to be achieved, some are a positional indication of a point in a referenced area, etc. but they all effect a communicated spatial reference in a unique manner. Requiring that our character set be patented separately creates a severe hardship both in presenting a device applicable to the needs of complex spatial referencing and with enough detail to be defensible (particularly where finances precludes several patents for a single dataset).

Species B seems to suggest that a separate patent should be filed for each interpretation of a symbol or set of symbols. For example, where the computer interprets an arrow for direction or if it interprets in its length the needed distance (magnitude of direction). This is simply using a potential dataset to describe spatial characteristics – some, perhaps, more applicable to one embodiment than another but certainly part of the identical spatial reference communication concept.

It further suggests that, if the computer logic gives credence to groups of characters (d), that this, as well, should be patented separately. These are all, however, characters used by the same invention.

Species C and D. Each of these are subclaims to claim 1 and are reasonable extensions of functional elements dependent on yet supportive of the independent claim. A spatial referencing and communications system having a subclaim applying an additional GPS reference certainly seems reasonable. Similarly, providing a subclaim made up of the primary claim plus the ability to receive some directions by wireless remote control hardly seems excessive (or due a completely separate patent) – unless it seems that there are just too many subclaims to deal with in the first place.

Applicant admits that there are a lot of claims and sincerely regrets any incumbent workload. However, applicant requests consideration in that applicant was charged hundreds of dollars (applicant mows his own lawn) specifically for these extra claims.

If number of claims is, in even some tiny part, considered material to election requirements (i.e. if the amount of work required to research the additional claims is any small part of a decision to separate a claim from the current patent), that seems in conflict with the intent of all of those additional per-claim charges.

Because of all of the above and the genuinely unified presentation of the system in the specification, applicant asks for relief from the hardships that would result from so much separation of an integrated system.

Respectfully submitted,

John C. Simmons
Inventor
(901) 601-1534 (Cell)
(901) 754-9458 (Home)
(901) 448-3503 (Lab)